

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**07 C 6660**

**JUDGE MORAN**  
**MAGISTRATE JUDGE COX**

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in front of Plaintiffs' home located at 3344 North Opal Avenue, Chicago.

10. Cherie Davis was with her two children and her friend Dominic Navarra.

11. A former acquaintance, Alexander Felix, followed Cherie home.

12. Cherie became frightened.

13. Cherie called 911 and reported that Alexander was stalking her.

14. Cherie also called her mother, Plaintiff MURELLA PAPALEO, and told her that Alexander had followed her home and was attempting to get into her car.

15. MURELLA PAPALEO informed Plaintiff KENNETH PAPALEO about Alexander following Cherie.

16. Both MURELLA and KENNETH went to the window and saw Alexander trying to open Cherie's car's door.

17. Upon information and belief, either KENNETH or his step-son, Ronald Reno, called 911.

18. After a few minutes, inspector Berry arrived on the scene.

19. A short time after inspector Berry arrived, Defendant-Officers JERRY ANDERSON and FUSTO AYALA, arrived on the scene.

20. After the Defendant-Officers arrived, Plaintiffs exited their house and approached Cherie, Alexander, and the Defendant-Officers.

21. Standing in his yard, KENNETH told the Defendant-Officers that he wanted Alexander arrested for stalking his daughter and for phone harassment.

22. One of the Defendant-Officers told KENNETH to, "Go back in the fucking house."

23. KENNETH again told the Defendant-Officers that Alexander was stalking his daughter and calling his house, and that he wanted Alexander arrested.

24. A Defendant-Officer pushed KENNETH in the chest.

25. The Defendant-Officer then grabbed KENNETH's arm and twisted it.

26. The other Defendant-Officer grabbed KENNETH's other arm.

27. KENNETH was seized and not free to leave.

28. KENNETH had not violated any city, state or federal law. Defendant-Officers did not have any reason to believe that KENNETH had violated, or was about to violate, any city, state or federal law. Defendant-Officers did not have an arrest warrant, probable cause,

reasonable suspicion, consent, or any other lawful basis to seize KENNETH.

29. A Defendant-Officer kned KENNETH in the groin.

30. KENNETH fell to his knees and the Defendant-Officer kicked him in the leg and hit him on the back of his neck.

31. KENNETH was then held on the ground by the Defendant-Officers.

32. Plaintiff MURELLA PAPALEO approached the Defendant-Officers asked why they were beating her husband.

33. The Defendant-Officer who kned KENNETH violently pushed MURELLA in the chest.

34. MURELLA stumbled backwards and began crying.

35. MURELLA then walked away.

36. Defendant-Officers eventually arrested Alexander Felix for harassment by telephone.

37. Plaintiffs were never charged.

38. Plaintiffs made a complaint with OPS about the incident (LOG# 1002099).

39. Each individual Defendant-Officer acted willfully, wantonly, maliciously, oppressively, and with a conscious disregard and deliberate indifference to Plaintiff's rights.

40. As a direct and proximate result of the acts of the Defendants described above, Plaintiff has suffered and continues to suffer damages including loss of physical liberty, emotional distress, physical pain and suffering, mental anguish and humiliation, and other damages.

**COUNT I**  
**(42 U.S.C. § 1983 – Unreasonable Seizure)**

41. Plaintiff KENNETH PAPALEO realleges paragraphs 1 through 40 as if fully set forth herein.

42. Defendant-Officers did not have a lawful basis to stop or seize KENNETH.

43. The actions of Defendant-Officers in seizing KENNETH without any legal justification or probable cause, violated his Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from unreasonable seizures.

WHEREFORE, KENNETH asks that this Honorable Court:

- a) Enter judgment against Defendant-Officers;
- b) Award compensatory and punitive damages, as determined at trial;
- c) Award attorneys' fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

**COUNT II**  
**(42 U.S.C. § 1983 – Excessive Force)**

44. Plaintiff KENNETH PAPALEO realleges paragraphs 1 through 40 as if fully set forth herein.

45. The actions of Defendant-Officer violated KENNETH's Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from the use of excessive and unreasonable force.

WHEREFORE, KENNETH asks that this Honorable Court:

- a) Enter judgment against said Defendant-Officer;
- b) Award compensatory and punitive damages, as determined at trial;
- c) Award attorneys' fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

**COUNT III**  
**(42 U.S.C. § 1983 – Excessive Force)**

46. Plaintiff MURELLA PAPALEO realleges paragraphs 1 through 40 as if fully set forth herein.

47. The above-described conduct violated MURELLA's Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from the use of excessive and unreasonable force.

WHEREFORE, MURELLA asks that this Honorable Court:

- a) Enter judgment against said Defendant-Officer;
- b) Award compensatory and punitive damages, as determined at trial;

- c) Award attorneys' fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

**COUNT IV**  
**(42 U.S.C. § 1983 – Failure to Intervene)**

48. Plaintiff realleges paragraphs 1 through 40 as if fully set forth herein.

49. While Plaintiff was subjected to excessive force as described above, Defendant-Officers had an opportunity to intervene, but chose not to intervene.

50. Defendant-Officers were deliberately indifferent to Plaintiff's right to be free from excessive and unreasonable force.

WHEREFORE, Plaintiff asks that this Honorable Court:

- a) Enter judgment against Defendant-Officers;
- b) Award compensatory and punitive damages, as determined at trial;
- c) Award attorneys' fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

**COUNT V**  
**(Indemnification Claim pursuant to 745 ILCS 10/9-102)**

51. Plaintiff realleges all of the above paragraphs and counts as if fully set forth herein.

52. The acts of the individual Defendant-Officers described in the above claims were willful and wanton, and committed in the scope of employment.

53. Pursuant to the Illinois Tort Immunity Act, 745 ILCS 10/9-102, Defendant CITY OF CHICAGO is liable for any judgments in this case arising from the actions of the Defendant-Officers.

WHEREFORE, Plaintiff asks that this Honorable Court order Defendant CITY OF CHICAGO to indemnify the Defendant-Officers for any judgment entered in this case arising from their actions.

**Plaintiffs demands trial by jury on all counts.**

Respectfully submitted,

/s/Louis J. Meyer

Louis J. Meyer

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